

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ERIC ADERHOLD, on his own behalf and on  
behalf of other similarly situated persons,

Plaintiff,

v.

CAR2GO N.A. LLC,

Defendant.

Case No. 2:13-cv-489

**COMPLAINT—CLASS ACTION**

**JURY DEMAND**

Plaintiff ERIC ADERHOLD (herein “Representative Plaintiff” or “ADERHOLD”), on his own behalf and on behalf of all other similarly situated persons (herein collectively “Plaintiffs”), by and through his counsel, bring this complaint against Defendant CAR2GO N.A. LLC (herein “Defendant” or “CAR2GO”) to obtain all injunctive relief, declaratory relief, damages, pre-judgment interest, attorney fees, costs, and other remedies which Plaintiffs are entitled to recover under law and equity.

**I. JURISDICTION AND VENUE**

1. This action asserts claims arising under federal law, including the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227.

2. Pursuant to 28 U.S.C. § 1367(a), this Court has original jurisdiction over the federal claims alleged in this complaint.



1           18.     CAR2GO is not sufficiently capitalized to sustain its business operations and pay  
2 for all of its liabilities.

3           19.     CAR2GO is the brand of another person.

4           20.     CAR2GO is the alter ego of another person.

5           21.     CAR2GO is the agent of another person.

6           22.     Discovery is necessary to ascertain and confirm the true identity of the person(s)  
7 for whom CAR2GO is a brand, alter ego, and/or agent.

8           23.     CAR2GO leases automobiles to consumers in those cities in which it operates.

9           24.     CAR2GO sells car-sharing services to consumers in those cities in which it  
10 operates.

11          25.     CAR2GO has operated in Austin, Texas since about May 2010.

12          26.     CAR2GO has a fleet of hundreds of automobiles with which it does business in  
13 Austin, Texas.

14          27.     CAR2GO has operated in San Diego, California since about November 2011.

15          28.     CAR2GO has a fleet of hundreds of automobiles with which it does business in  
16 San Diego, California.

17          29.     CAR2GO has operated in Washington, D.C. since about March 2012.

18          30.     CAR2GO has a fleet of hundreds of automobiles with which it does business in  
19 Washington, D.C.

20          31.     CAR2GO has operated in Portland, Oregon since about March 2012.

21          32.     CAR2GO has a fleet of hundreds of automobiles with which it does business in  
22 Portland, Oregon.

23          33.     CAR2GO has operated in Miami, Florida since about July 2012.

24          34.     CAR2GO has a fleet of hundreds of automobiles with which it does business in  
25 Miami, Florida.

26          35.     CAR2GO has operated in Seattle, Washington since about December 2012.  
27

1           36.     CAR2GO has a fleet of hundreds of automobiles with which it does business in  
2 Seattle, Washington

3           37.     CAR2GO plans to expand its operations to other cities within the United States.

4           38.     CAR2GO plans to expand its operations in cities in which it already does business  
5 in the United States.

6           39.     As CAR2GO presently is organized to do business, CAR2GO could not continue  
7 to expand its operations in the United States if it were not a brand, alter ego, or agent of another  
8 person.

9                                   **III. GENERAL ALLEGATIONS**

10          40.     CAR2GO has a website at [www.car2go.com](http://www.car2go.com).

11          41.     All persons who reside in the United States potentially can access CAR2GO's  
12 website at [www.car2go.com](http://www.car2go.com).

13          42.     Potential customers of CAR2GO include persons who reside in the United States  
14 that have a mailing address, a driver's license issued in the United States, a cellular telephone  
15 number, and an email address.

16          43.     All persons who reside in Washington potentially can access CAR2GO's website  
17 at [www.car2go.com](http://www.car2go.com).

18          44.     Potential customers of CAR2GO include persons who reside in Washington that  
19 have a mailing address, a driver's license issues in the United States, a cellular telephone number,  
20 and an email address.

21          45.     CAR2GO encourages consumers who wish to become its customers to visit its  
22 website at [www.car2go.com](http://www.car2go.com).

23          46.     Consumers who visit CAR2GO's website are given the option to choose from  
24 among the cities in which CAR2GO does business.

25          47.     After consumers select a city in the United States that is available at CAR2GO's  
26 website, the consumers are taken to CAR2GO's webpage for that city.

27          48.     CAR2GO has webpages for each of the cities in which it conducts business.

49. A webpage for CAR2GO's operations in Seattle, Washington can be found at [www.car2go.com/en/seattle/](http://www.car2go.com/en/seattle/).

50. CAR2GO only provides its car-sharing services to consumers who become members of CAR2GO.

51. CAR2GO only leases its automobiles to consumers who become members of CAR2GO.

52. CAR2GO directs consumers who wish to become CAR2GO members to select the option available at each of its city webpages to "Become a member".

53. At each of the webpages for the cities served by CAR2GO in the United States, CAR2GO conspicuously represents to consumers like ADERHOLD that the only cost they will incur to complete the membership application process will be a certain fee and applicable tax paid to CAR2GO.

54. Each of CAR2GO's webpages for cities in the United States has stated the following to consumers like ADERHOLD:

Thank You for becoming a car2go member. We just want to remind you that a **One Time Registration Fee of \$35.00** (plus tax) will be applied **UNLESS YOU HAVE A VALID PROMOTION CODE**. Expired promo codes will not be honored.

55. CAR2GO's representations about the limited, certain cost to complete the membership application process were incomplete, misleading, and false.

56. Until about March 3, 2013, CAR2GO conspicuously offered free memberships to consumers in Seattle like ADERHOLD.

57. Until about March 3, 2013, CAR2GO stated the following in bold text on its Seattle webpage:

**For a limited time, use promo code SOUND to receive free registration and 30 minutes of drive time.**

58. CAR2GO's offers of free memberships to consumers in Washington were incomplete, misleading, and false.

1           59.     CAR2GO's deceptive misrepresentations obfuscated the fact that consumers  
2 would have to pay a cellular telephone service provider to receive text messages to complete the  
3 membership application process of CAR2GO.

4           60.     After making such representations and/or offers, CAR2GO's website directs  
5 consumers to confirm their location and enter their personal data to complete the membership  
6 application process.

7           61.     CAR2GO requires consumers to provide it with certain personal data to complete  
8 CAR2GO's website membership application process in the United States.

9           62.     Personal data which CAR2GO requires consumers to provide to complete  
10 CAR2GO's website membership application process in the United States includes the following:

- 11           a.     The consumer's first name;
- 12           b.     The consumer's last name;
- 13           c.     The consumer's birthday and place of birth;
- 14           d.     The consumer's street address;
- 15           e.     The consumer's postal code and city;
- 16           f.     The consumer's country;
- 17           g.     The consumer's language;
- 18           h.     The consumer's private cellular telephone number; and
- 19           i.     The consumer's email address.

20           63.     As an additional part the membership application process at CAR2GO's website,  
21 CAR2GO makes what it calls "Other mandatory disclosures". Describing this portion of the  
22 membership application process, CAR2GO's website states as follows:  
23

24           A copy of the car2go Terms and Conditions, Trip Process and Privacy Policy are  
25 available for your review via the links below. These documents will control your  
26 membership application and subsequent participation in the car2go trip process. You are  
27 required to review the content of each document as part of your application, and prior to  
any application being approved. Upon your review of these documents please confirm  
your receipt, review and understanding of each document and acknowledge your  
agreement and acceptance of same.

1           64.     None of these "Other mandatory disclosures" make clear or otherwise  
2     unmistakably state that consumers will be sent a text message automatically as part of  
3     CAR2GO's membership application process.

4           65.     In fact, these "Other mandatory disclosures" deceptively obfuscate that CAR2GO  
5     automatically sends text messages as part of its website membership application process.

6           66.     The only references in the "Other mandatory disclosures" which concern the  
7     transmission of text messages to consumers are in connection to some aspects of the CAR2GO  
8     trip process.

9           67.     CAR2GO's website states that participation in CAR2GO's trip process occurs  
10    "subsequent" to CAR2GO's membership application process.

11          68.     None of these "Other mandatory disclosures" make clear or otherwise  
12    unmistakably state that CAR2GO's representations of limited membership costs and offers of  
13    free membership were misleading or false.

14          69.     CAR2GO's representations on its webpage and in its "Other mandatory  
15    disclosures" reasonably induce consumers to believe that they will not be sent any text message  
16    as part of the CAR2GO membership application process.

17          70.     CAR2GO's website does not inform consumers in the United States that they will  
18    be sent a text message to complete the membership application process at CAR2GO's website.

19          71.     Attached as *Exhibit 1* to this complaint is a screenshot copy of the "Become a  
20    member" portion of CAR2GO's webpage found in February 2013 at CAR2GO's website at  
21    [www.car2go.com/en/seattle](http://www.car2go.com/en/seattle).

22          72.     *Exhibit 1* provides a description by CAR2GO of the membership application  
23    process for consumers who wish to purchase CAR2GO's car-sharing services in Seattle,  
24    Washington.

25          73.     *Exhibit 1* provides a description by CAR2GO of the membership application  
26    process for consumers who wish to lease a CAR2GO automobile in Seattle, Washington.  
27

1           74. Attached as *Exhibit 2* to this complaint is a copy of the CAR2GO Terms and  
2 Conditions document that is referenced as one of the "Other mandatory disclosures" in *Exhibit 1*.

3           75. The CAR2GO Terms and Conditions document mentions text messages only in  
4 its Section 5, which CAR2GO labels to be a section that relates to "**Reservation and**  
5 **Commencement of Trip Period**".

6           76. Attached as *Exhibit 3* to this complaint is a copy of the CAR2GO Trip Process  
7 document that is referenced as one of the "Other mandatory disclosures" in *Exhibit 1*.

8           77. The CAR2GO Trip Process document mentions text messages only in its Section  
9 IV, which CAR2GO labels to be a section that relates to "**MAKING A RESERVATION /**  
10 **ACCESSING VEHICLES**".

11           78. Attached as *Exhibit 4* to this complaint is a copy of the CAR2GO Privacy Policy  
12 document that is referenced as one of the "Other mandatory disclosures" in *Exhibit 1*.

13           79. The CAR2GO Privacy Policy document does not mention text messages.

14           80. Consumers who engage in CAR2GO's website membership application process  
15 are not given the opportunity to provide clear and unmistakably stated consent for CAR2GO to  
16 send them text messages as part of the membership application process.

17           81. After consumers at CAR2GO's webpage provide all required personal data and  
18 other required information, they are directed to click on a button-like link at the bottom of the  
19 webpage that states, "Become a member".

20           82. Immediately after clicking on the bottom "Become a member" button-like link, if  
21 the consumers have provided information required as part of the online membership application,  
22 the consumers automatically are sent an email with a link to activate their CAR2GO account.

23           83. Immediately after clicking on the bottom "Become a member" button-like link, if  
24 the consumers have provided information required as part of the online membership application,  
25 then the cellular telephone numbers of the consumers automatically are sent a text message.

26           84. These text messages are sent immediately after CAR2GO's website accepts the  
27 information provided by the consumers.



1           85.     These text messages are sent without any apparent human intervention.

2           86.     These text messages are sent without any apparent opportunity for human  
3 intervention.

4           87.     These text messages deliver an activation code which CAR2GO instructs  
5 consumers to enter into the emailed link for the purpose of completing the membership  
6 application process. These text messages also deliver a welcoming message from CAR2GO that  
7 encourages recipients to complete CAR2GO's membership application process.

8           88.     These text messages serve commercial purposes for CAR2GO.

9           89.     These text messages contain commercial messages from CAR2GO.

10          90.     These text messages promote the sale of CAR2GO's car-sharing services.

11          91.     These text messages promote the leasing of CAR2GO's automobiles.

12          92.     CAR2GO is a profit-seeking business enterprise.

13          93.     No human can manually transmit such text messages, be sure to include a unique  
14 activation code which integrates seamlessly with a simultaneously emailed link, and do all of this  
15 in immediate response to personal data provided by consumers in their membership application.  
16 At least, no human can do so in a reliable, economical manner that can support a profit-seeking  
17 business enterprise like CAR2GO.

18          94.     CAR2GO necessarily used and still uses some manner of automated device or  
19 system of automated devices to transmit these text messages.

20          95.     CAR2GO used and still uses an automated telephone dialing system ("ATDS"), as  
21 that term is defined by the TCPA, to transmit these text messages.

22          96.     In December 2012, ADERHOLD visited CAR2GO's webpage for CAR2GO's  
23 operations in Seattle, Washington.

24          97.     The membership application portion of CAR2GO's webpage visited by  
25 ADERHOLD was substantively similar to *Exhibit 1*.

26          98.     When ADERHOLD visited CAR2GO's webpage for CAR2GO's operations in  
27 Seattle, CAR2GO represented and offered, as previously set forth herein, a CAR2GO

1 membership free of any costs. Like numerous other consumers, ADERHOLD accepted this  
2 offer.

3 99. At this webpage, ADERHOLD completed and submitted a CAR2GO membership  
4 application.

5 100. Immediately after ADERHOLD clicked the "Become a member" button-like link  
6 on the webpage to submit his completed membership application, CAR2GO sent a text message  
7 to ADERHOLD's cellular telephone number.

8 101. This text message was sent to ADERHOLD without any apparent human  
9 intervention.

10 102. This text message was sent to ADERHOLD without any apparent opportunity for  
11 human intervention.

12 103. CAR2GO used its ATDS to send ADERHOLD this text message.

13 104. Immediately after ADERHOLD clicked the "Become a member" button-like link  
14 on the webpage to submit his application, ADERHOLD's cellular telephone indicated that he had  
15 received a text message. ADERHOLD received a text message on his cellular telephone. This  
16 text message was sent by CAR2GO.

17 105. The text message sent by CAR2GO to ADERHOLD stated, "Please enter your  
18 car2go activation code 145858 into the emailed link. We look forward to welcoming you to  
19 car2go!"

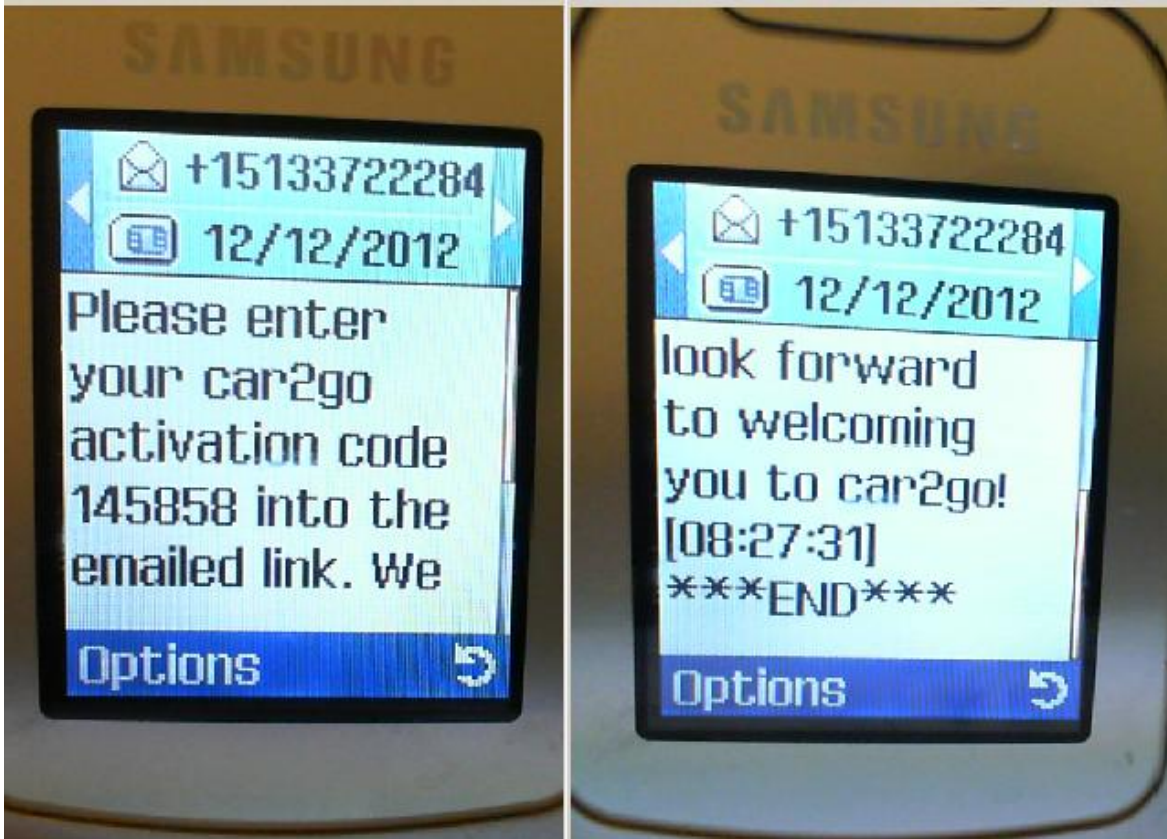
20 106. This text message served commercial purposes for CAR2GO.

21 107. This text message contained commercial messages from CAR2GO.

22 108. This text message promoted the sale of CAR2GO's car-sharing services.

23 109. This text message promoted the leasing of CAR2GO's automobiles.

24 110. The following are photographic images of this text message as it was received by  
25 ADERHOLD on his cellular telephone:  
26  
27



111. ADERHOLD received this text message at 8:27 a.m. on December 12, 2012.

112. Also at 8:27 a.m. on December 12, 2012, ADERHOLD received an email from CAR2GO with the link referenced in this text message.

113. ADERHOLD did not provide any consent of any kind for CAR2GO to send him this text message.

114. CAR2GO did not disclose that it would be using an ATDS to send him this text message.

115. ADERHOLD's receipt of this unsolicited text message surprised and annoyed ADERHOLD. Like other similarly situated persons who were sent such text messages, ADERHOLD was injured as a result of CAR2GO's transmission of the text message in ways including, but not limited to, the following: (a) Having to pay a cellular service provider to receive the unsolicited text message from CAR2GO; (b) Invasion of privacy; (c) Aggravation and annoyance from having to retrieve or administer the unsolicited text message on the cellular telephone which received the unsolicited text message; (d) Loss of use of the full capacities and

1 capabilities, *e.g.*, electronic storage space, of the cellular telephone which received the  
 2 unsolicited text message; (e) Loss of energy stored in the battery of the cellular telephone which  
 3 received the unsolicited text message; and (f) Impairment, burden, and/or injury to the cellular  
 4 telephone network upon which ADERHOLD and consumers like him rely.

5 116. ADERHOLD's cellular service provider charged ADERHOLD for his receipt of  
 6 this text message.

7 117. Through February 2013, CAR2GO sent text messages to over ten thousand  
 8 consumers in the United States as part of CAR2GO's membership application process.

9 118. Through February 2013, CAR2GO sent text messages to over five thousand  
 10 consumers in Washington as part of CAR2GO's membership application process.

11 119. CAR2GO's systematic and automated transmission of so many unsolicited text  
 12 messages burdened and otherwise injured the telecommunications infrastructure through which  
 13 all text messages must pass. As a consequence, cellular service providers incurred avoidable  
 14 costs which negatively impact the price that consumers like ADERHOLD pay for cellular  
 15 telephone services.

16 120. Consumers like ADERHOLD have no effective means to avoid receiving  
 17 unsolicited text messages. There are no readily available and effective "spam" filters like those  
 18 which consumers can use to protect themselves from unsolicited emails. The only real protection  
 19 which consumers have from unsolicited text messages is through the vigorous enforcement of  
 20 federal and state laws such as the TCPA, CEMA, and CPA.

#### 21 IV. CLASS ACTION ALLEGATIONS

22 121. Representative Plaintiff brings this class action on behalf of himself and as  
 23 representative of the following class of persons (the "National Class A") entitled to injunctive  
 24 relief and declaratory relief under federal law:

25 All persons who reside in the United States or its territories and who have completed or  
 26 may in the future complete CAR2GO's membership application process at CAR2GO's  
 website.

27 122. National Class A includes at least ten thousand persons.

1           123. Representative Plaintiff brings this class action on behalf of himself and as  
2 representative of the following persons (the “Washington Subclass A”) who are entitled to  
3 injunctive relief and declaratory relief under Washington law:

4           All persons who reside in Washington and who have completed or may in the future  
5 complete CAR2GO’s membership application process at CAR2GO’s website.

6           124. Washington Subclass A includes at least ten thousand persons.

7           125. Representative Plaintiff brings this class action on behalf of himself and as  
8 representative of the following class of persons (the “National Class B”) entitled to remedies  
9 under federal law including damages:

10           All persons who reside in the United States or its territories and who were sent a  
11 text message when completing CAR2GO’s membership application process at  
12 CAR2GO’s website.

13           126. CAR2GO sent text messages to at least ten thousand persons who reside in the  
14 United States when these persons were completing CAR2GO's membership application process  
15 at CAR2GO's website.

16           127. National Class B includes at least ten thousand persons.

17           128. Representative Plaintiff brings this class action on behalf of himself and as  
18 representative of the following persons (the “Washington Subclass B”) who are entitled to  
19 remedies under Washington law including damages:

20           All persons who reside in Washington and who were sent a text message when  
21 completing CAR2GO’s membership application process at CAR2GO's website.

22           129. CAR2GO sent text messages to at least five thousand persons who reside in  
23 Washington when these persons were completing CAR2GO's membership application process at  
24 CAR2GO's website.

25           130. Washington Subclass B includes at least five thousand people.

26           131. Excluded from all class definitions are (a) any employees, officers, or directors of  
27 CAR2GO; (b) any attorney appearing in this action; and (c) any judge assigned to hear any  
aspect of this action.

1           132. Plaintiffs' claims satisfy the numerosity, commonality, typicality, adequacy of  
2 representation and superiority requirements for class action certification pursuant to Federal Rule  
3 of Civil Procedure, Rules 23(a) and Rules 23(b)(1), 23(b)(2), and/or 23(b)(3) as referenced in  
4 this complaint and in accord with proof.

5           133. Defendant possesses personal data including names, mailing addresses, cellular  
6 telephone numbers, and email addresses for members of National Class A.

7           134. Defendant possesses personal data including names, mailing addresses, cellular  
8 telephone numbers, and email addresses for members of Washington Subclass A.

9           135. Defendant possesses personal data including names, mailing addresses, cellular  
10 telephone numbers, and email addresses for members of National Class B.

11           136. Defendant possesses personal data including names, mailing addresses, cellular  
12 telephone numbers, and email addresses for members of Washington Subclass B.

13           137. Joinder of the numerous class members in to an action is impracticable. In fact,  
14 given the number of class members, the only way to deliver substantial justice to all members of  
15 the class is by means of a single class action.

16           138. There are questions of fact and law common to the class. These common  
17 questions predominate over any questions affecting only individual members. The questions of  
18 law and fact common to the class arising from Defendant's conduct include, without limitation,  
19 the following:

20           a. Does class members' submission of their membership application at  
21 CAR2GO's website constitute clear, affirmative, and unmistakably stated consent to be  
22 sent a text message as part of the application process?

23           b. Does CAR2GO utilize an ATDS to send consumers text messages as part  
24 of CAR2GO's membership application process?

25           c. Are the text messages sent by CAR2GO as part of its membership  
26 application process commercial text messages?  
27



1 d. Does Defendant negligently, knowingly, and/or willfully cause violations  
2 of the TCPA when sending text messages as part of CAR2GO's website membership  
3 application process?

4 e. Does Defendant negligently, knowingly, and/or willfully cause violations  
5 of Washington's CPA or CEMA when sending text messages as part of CAR2GO's  
6 website membership application process?

7 f. What are the statutory damages that Defendant must pay for each of the  
8 unsolicited text messages sent to the Plaintiffs?

9 g. Are Plaintiffs entitled to collect pre-judgment interest on the statutory  
10 damages which are now due from Defendant?

11 h. Was Defendant the agent or alter ego of any other persons when it sent the  
12 unsolicited text messages to Plaintiffs?

13 139. The questions referenced above predominate over any questions affecting only  
14 individual persons, and a class action is superior with respect to considerations of consistency,  
15 economy, efficiency, fairness and equity, to other available methods for the fair and efficient  
16 adjudication of Plaintiffs' claims.

17 140. Representative Plaintiff's claims are typical of those of the class in that he was  
18 injured by the same membership application process that has injured or else will injure the other  
19 members of the class. The text message which Representative Plaintiff received in December  
20 2012 is typical of the text messages that Defendant has sent and continues to send to other  
21 members of the class.

22 141. A class action is the appropriate method for the fair and efficient adjudication of  
23 this controversy. Defendant has acted in a general manner as part of a systemic process to the  
24 injury and damage of class members. Defendant continues this same conduct which puts other  
25 members of the class at undue risk of injury in the future. The presentation of separate actions by  
26 individual class members could create a risk of inconsistent and varying adjudications, establish  
27

1 incompatible standards of conduct for Defendant, and/or substantially impair or impede the  
2 ability of class members to protect their interests.

3 142. Representative Plaintiff is an adequate representative of the class because he is a  
4 member of the class and his interests do not conflict with the interests of the members of the  
5 class he seeks to represent. The interests of the members of the class will be fairly and  
6 adequately protected by Representative Plaintiff. Also, Representative Plaintiff is represented by  
7 counsel with extensive, multi-jurisdictional experience representing clients in complex class  
8 action litigation.

9 143. Maintenance of this action as a class action is a fair and efficient method for the  
10 adjudication of this controversy. It would be impractical and undesirable for each of the  
11 numerous persons who comprise the class to bring separate actions. The maintenance of such  
12 separate actions would place a substantial and unnecessary burden on the courts and could result  
13 in inconsistent adjudications, while a single class action can determine, with judicial economy,  
14 the rights of all class members.

15 144. If this action is not certified as a class action, then given the number of class  
16 members, the only way that the court system will not be overburdened by a multiplicity of suits  
17 over the subject matter of this complaint is if members of the class cannot or do not pursue an  
18 action against Defendants for reasons altogether unrelated to the merits of their claims (*e.g.*,  
19 challenges in accessing legal counsel, the mundane realities of surviving in a challenging  
20 economy, *et cetera*). Most Plaintiffs can obtain legal representation for their claims only through  
21 a class action. The only practical way to ensure that all members of the class are afforded an  
22 opportunity to obtain substantial justice with regard to the wrongs and injuries to which  
23 Defendant has inflicted or else will inflict upon them is to resolve the subject matter of this  
24 complaint through a class action.

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26  
27



**V. FIRST COUNT**

**Violations of Telephone Consumer Protection Act**

*(Representative Plaintiff and the National Classes vs. Defendant)*

145. Plaintiffs reassert and re-allege the allegations set forth in the above paragraphs as if the same were alleged herein this count.

146. At all times material herein, Plaintiffs have been entitled to the rights, protections, and benefits provided under the TCPA, 47 U.S.C. § 227.

147. Negligently, knowingly, and/or willfully, Defendant engaged in acts, omissions, and/or other conduct as referenced herein this complaint that violate the TCPA. Defendant used an ATDS to initiate thousands of unsolicited telephone calls to Plaintiffs' cellular telephone numbers. These telephone calls delivered unsolicited commercial text messages to the cellular telephones of Representative Plaintiff and the other Plaintiffs as referenced in this complaint.

148. Plaintiffs are entitled to recover \$500 in damages from Defendant for each violation of the TCPA.

149. Additionally, Plaintiffs are entitled to all damages referenced herein and in accord with proof, attorneys' fees, costs, treble damages, and other remedies allowed by statute.

150. Defendant will continue its unlawful conduct in the future absent (a) a judicial declaration which clearly states the illegality of their conduct and (b) an injunction barring Defendant from engaging in such illegal conduct in the future.

**VI. SECOND COUNT**

**Violations of the Washington Consumer Protection Act**

*(Representative Plaintiff and the Washington Subclasses vs. Defendant)*

151. Plaintiffs reassert and re-allege the allegations set forth in the above paragraphs of this complaint as if the same were alleged herein this count.

152. At all times material to this complaint, Plaintiffs have been entitled to the rights, protections, and benefits provided under the Washington's CPA and CEMA.

153. As referenced in this complaint and in accord with proof to be presented at trial, Defendant's conduct has violated both Washington's CPA and CEMA.



1           A.     Declare Defendant's wrongful conduct to be illegal.

2           B.     Grant a permanent injunction enjoining Defendant, its officers, successors,  
3 principals, agents, assigns, and all persons in active concert or participation with them, from  
4 engaging in their unlawful conduct, including without limitation the following: (a) Defendant  
5 should be barred from sending text messages to persons as part of CAR2GO's membership  
6 application process without first obtaining consent that is clear, unmistakable, and affirmatively  
7 stated; (b) Defendant should be barred from using any ATDS to send unsolicited text messages  
8 as part of its current membership application process in the United States and its territories; (c)  
9 Defendant should be barred from transmitting unsolicited commercial text messages to persons  
10 in Washington; and (d) Defendant should be barred from engaging in any other conduct that is an  
11 unfair, deceptive, or otherwise unlawful practice referenced in this complaint.

12           C.     Order Defendant to make Representative Plaintiff and other class members whole  
13 by providing an award of compensatory, consequential, and/or statutory damages resulting from  
14 the unlawful conduct and practices described in the above paragraphs in amounts to be  
15 determined at trial, but in no event less than \$500 for each violation of RCW 19.86.010, *et seq.*,  
16 RCW 19.190.010, *et seq.*, and 47 U.S.C. § 227.

17           D.     Order Defendant to pay Representative Plaintiffs and the other class members  
18 punitive and/or treble damages to the fullest extent allowed by law, including but not limited to  
19 all punitive and/or treble damages for a knowing or willful violation of the TCPA and  
20 Washington's CPA.

21           E.     Order Defendant to make Representative Plaintiff and the other class members  
22 whole by providing appropriate prejudgment interest, in an amount to be determined at trial, and  
23 other affirmative relief necessary to eradicate the effects of Defendant's unlawful conduct and  
24 practices.

25           F.     Award Representative Plaintiff and the other class members the costs of this  
26 action, including attorneys' fees, as authorized by law and/or as sounds in tort, contract, or  
27 equity.

1 G. Grant any additional or further relief as provided by law or equity which this  
2 Court finds appropriate, equitable, or just.

3 **VIII. JURY DEMAND**

4 Representative Plaintiff demands a jury trial on all issues so triable.

5 RESPECTFULLY SUBMITTED: March 18, 2013

/s/ Albert H. Kirby  
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